

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

CASE No. 2:13-CV-183

American Family Mutual Ins. Co.

PLAINTIFF

– v –

**Enterprise Leasing Company
of Chicago, LLC, et al.**

DEFENDANTS

AMENDED COMPLAINT

1. JURISDICTION

- 1.1 This is an action for declaratory judgment. American Family Mutual Insurance Company brings it under 28 U.S.C. § 2201 and Fed. R. Civ. P. 57 to address an actual and direct controversy between the defendants and it.
- 1.2 The court has jurisdiction over the matter under 28 U.S.C. § 1332. American Family is a Wisconsin citizen. It is incorporated in Wisconsin, where it also has its principal place of business.
- 1.3 Enterprise Leasing Company of Chicago, LLC and EAN Holdings, LLC are limited-liability companies. The only member of each company is Enterprise Holdings, Inc. Enterprise Holdings, Inc. is incorporated in Missouri and has its principal place of business in Missouri. It is a Missouri citizen.
- 1.4 Dana Steele is an Indiana citizen.
- 1.5 Kevin L. Fishburn is an Illinois citizen.
- 1.6 Kathy G. Lyles and her two minor children, K.J.H. (a male child), K.J.H. (a female child), and her niece, D.M.L. (a female minor), are Indiana citizens.
- 1.7 The amount in controversy exceeds \$75,000 excluding costs and interest.

2. VENUE

- 2.1 Venue is proper in the Hammond division under 28 U.S.C. §§ 1391(b)(2) and 94(a)(3).
- 2.2 A substantial part of the events or omissions leading to the claim occurred in Lake County, Indiana.

3. BACKGROUND

- 3.1 Dana Steele is the named insured on an Indiana Family Car Policy that American Family issued. The policy is identified by the number 1031-1293-01-35-FPPA-IN, and it was effective on November 16, 2012. Exact duplicates of that policy and declarations page are attached to the original complaint as Exhibit A. It is not re-attached here.
- 3.2 Kathy G. Lyles is Steele's daughter. K.J.H. (a male child) K.J.H. (a female child), and D.M.L. (a female child) are Steele's grandchildren.
- 3.3 Enterprise Leasing Company of Chicago, LLC is in the business of renting automobiles to the public.
- 3.4 Steele rented an automobile from Enterprise to attend a funeral in Illinois. EAN Holdings owned the automobile Steele rented.
- 3.5 On November 16, 2012, the car Steele rented from Enterprise was involved in a collision with a vehicle driven by Kevin Fishburn.
- 3.6 The collision happened on North Keller Drive in Effingham, Illinois.
- 3.7 Lyles was driving the rental car when the collision happened. Steele, K.J.H. (a male child) K.J.H. (a female child), and D.M.L. (a female child) were all passengers in the rental car when the collision happened.
- 3.8 Fishburn, Lyles, K.J.H. (a male child) K.J.H. (a female child), and D.M.L. (a female child) were all injured in the collision.
- 3.9 Fishburn's, Enterprise's, and EAN's property was damaged in the collision.
- 3.10 Insurance coverage and liability for the collision is disputed.
- 3.11 Fishburn, Lyles, K.J.H. (a male child) K.J.H. (a female child), and D.M.L.

(a female child) have all made bodily injury claims under various coverages in Steele's American Family policy, and may seek coverage under the policy's uninsured-motorist and underinsured-motorist provisions.

- 3.12 Fishburn, Enterprise, and EAN have all looked to American Family to pay for their property damage.
- 3.13 Fishburn may sue Lyles for the injuries and property damage he attributes to the collision.
- 3.14 Lyles is not, and was not, a named insured on Steele's American Family policy, and is not an insured as the policy defines the term.
- 3.15 Lyles, K.J.H. (a male child) K.J.H. (a female child), and D.M.L. (a female child) are not entitled to medical-payments coverage, bodily injury coverage, or uninsured-motorist or underinsured motorist coverage under Steele's American Family policy.
- 3.16 American Family is not obligated to either defend or indemnify Lyles in any lawsuit for property damage, personal injury, or both that Fishburn may bring against her.
- 3.17 American Family is not obligated to defend or indemnify Lyles in any property-damage lawsuit Enterprise and EAN may bring against her.
- 3.18 This case involves an actual and direct controversy between American Family and the defendants as to whether American Family is obligated to defend or indemnify Lyles in any lawsuits arising from the collision.
- 3.19 Steele is made a defendant in this lawsuit to answer for her interest, if any, under her American Family policy.

4. RELIEF REQUESTED

American Family requests that the court declare the rights, duties, and obligations of the parties by entering an order stating or providing that:

- 4.1 American Family is not obligated to either defend or indemnify Lyles in any action that anyone may bring against her for her role in the collision

because she is not the named insured in Steele's policy, and because she is not an insured person under Steele's policy;

- 4.2 Fishburn, Enterprise, EAN, Lyles, K.J.H. (a male child) K.J.H. (a female child), and D.M.L. (a female child) have no rights or interests under the policy American Family issued to Steele;
- 4.3 Lyles, K.J.H. (a male child) K.J.H. (a female child), and D.M.L. (a female child) are not entitled to coverage under any of the policy's coverages, including underinsured-motorist and uninsured-motorist coverage; and
- 4.4 American Family is entitled to such other relief as is appropriate in the circumstances.

DATE: AUGUST 9, 2013

/s/ J. Thomas Vetne

J. Thomas Vetne | 19606-64

JONES OBENCHAIN, LLP

600 KEYBANK BUILDING

202 S. MICHIGAN ST.

POST OFFICE BOX 4577

SOUTH BEND, IN 46634-4577

574.233.1194 | 574.233.8957 FAX

JTV@JONESOBENCHAIN.COM

Plaintiff's Attorney

CERTIFICATE OF SERVICE

On August 9, 2013, I served this Motion on the following, via U.S. Mail:

Dana Steele
Post Office Box 4153
Hammond, Indiana 46324

Kevin L. Fishburn
314 South Elm Street
Stonington, Illinois 62567

EAN Holdings
Attention: Legal Department 7788
600 Corporate Park Drive
St. Louis, Missouri 63105

Enterprise Leasing Company
of Chicago, LLC
1050 North Lombard Road
Lombard, Illinois 60148

Glenda Lyles
Apartment 110

Kathy G. Lyles
401 North Miami

CASE No. 2:13-CV-183

8870 East 6 Drive
Gary, Indiana 46403-3225

Gary, Indiana 46403

/s/ J. Thomas Vetne

J. Thomas Vetne | 19606-64